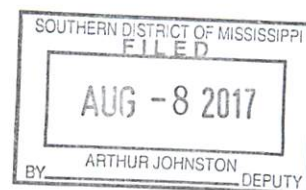


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION



ANNA MCDONALD

PLAINTIFF

V.

CIVIL ACTION NO. 3:17-cv-652DPJ-FKB

ALLSTAR RECOVERY, LLC; CREDIT
ACCEPTANCE; RICHARD HARRIGILL;
STERLING GAY; ABC; DEF and GHI

DEFENDANTS

NOTICE OF REMOVAL

COMES NOW Credit Acceptance Corporation ("Credit Acceptance"), and files this its Notice of Removal to the United States District Court for the Southern District of Mississippi, Northern Division, and in support thereof would show unto the Court the following, to-wit:

1. This Court has jurisdiction over this civil action pursuant to 28 U.S.C. §§ 1332, 1441 & 1446.
2. This action was commenced on June 27, 2017, in the Circuit Court of Smith County, Mississippi, Case No. 2017-130-1. The Defendants named in the Complaint included AllStar Recovery, LLC ("AllStar"), Credit Acceptance, Richard Harrigill ("Harrigill"), and Sterling Gay ("Gay"). *See* Complaint at 1.
3. The Complaint alleges that Plaintiff entered into a retail installment contract with Credit Acceptance for the purpose of financing a 2007 model General Motors Arcadia vehicle bearing Vehicle Identification Number

1GKER33787J131787. *See* Complaint at ¶ 9. The Complaint alleges that Plaintiff was harmed during an attempted repossession of her vehicle and seeks an unspecified and unlimited amount in actual and punitive damages. *See* Exhibit “B” at ¶¶ 10-13 & *addendum* clause.

4. This Court has diversity jurisdiction over this case. Plaintiff is a citizen of Mississippi. *See* Complaint at 1. Credit Acceptance is a Michigan corporation with its principal place of business in Michigan. However, AllStar, Harrigill and Gay have been improperly/fraudulently joined in this action because Plaintiff has no possibility of recovery against them. Neither AllStar nor Harrigill nor Gay had any involvement with the alleged wrongful repossession of the vehicle that is the subject matter of this action. Therefore, the only properly joined Defendant (i.e. Credit Acceptance) is a non-citizen of Mississippi. *See* Complaint at pp. 1-2. Thus, complete diversity of citizenship exists between Plaintiff (Mississippi) and the properly joined Defendant, Credit Acceptance (Michigan). Based upon Plaintiff’s claims for an unspecified and unlimited amount in actual and punitive damages, and attorney’s fees, the amount in controversy exceeds \$75,000. *See, e.g.*, 28 U.S.C. § 1446(c)(2). Accordingly, this Court also has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

5. Removal of this matter is timely pursuant to 28 U.S.C. § 1446. This action was filed on June 27, 2017. Credit Acceptance was purportedly served on

July 20, 2017. The removal is timely because it has been filed within thirty days of the purported service of process on Credit Acceptance. *See* 28 U.S.C. § 1446(b). All necessary and properly joined Defendants consent to the removal of this action within the time legally permitted.

6. By filing this Notice of Removal, Credit Acceptance does not waive its rights to object to service, service of process, sufficiency of process, jurisdiction over the subject matter, jurisdiction over the person, venue, or assert any other applicable defenses. Additionally, Credit Acceptance expressly reserves any right to have the claims asserted herein resolved solely through arbitration pursuant to the retail installment contract signed by Plaintiff and assigned to Credit Acceptance. *See Credit Acceptance Corporation v. McDonald*; Civil Action No. 3:17-CV-644-TSL-RHW (S.D. Miss.).

7. This Court has supplemental jurisdiction over all other claims asserted by Plaintiff in accordance with 28 U.S.C. §§ 1367 & 1441.

8. A copy of the Complaint in this matter is attached hereto, and incorporated herein by reference. The entire state court file will be filed electronically. *See* Uniform Local Rule 5(b).

9. A copy of this Notice of Removal has been sent to counsel of record for the Plaintiff, and will be filed with the Clerk of the Circuit Court of Smith County, Mississippi.

WHEREFORE, PREMISES CONSIDERED, Credit Acceptance prays that this Court assume full jurisdiction over these proceedings as provided for by law.

THIS the 8th day of August, 2017.

Respectfully submitted,

**CREDIT ACCEPTANCE
CORPORATION**

By:



Of Counsel

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CERTIFICATE OF SERVICE

I do hereby certify that I have this day served via U.S. Mail, postage prepaid,
a true and correct copy of the foregoing to:

Raymond P. Tullos
P. O. Box 74
Raleigh, MS 39153
raymondtullos@tullosandtullos.com

Anthony Grayson, Clerk
Smith County Circuit Court
P. O. Box 517
Raleigh, Mississippi 39153-0517

This the 8th day of August, 2017.



Of Counsel

307991.1